MINUTES OF PROCEEDINGS

OF A

MEETING OF THE BENEFICIARIES

OF

THE TEMPORALITIES' BOARD,

Held in Montreal on the 28th and 29th of June, 1882.

At a meeting of the Beneficiaries of the Temporalities Fund, called by a circular of the Chairman of the Temporalities' Board, and held in St. Paul's Church, Montreal, on the twenty-eighth and twenty-ninth days of June, eighteen hundred and eighty-two, the following resolutions were adopted, and the Secretary was instructed to furnish the Temporalities' Board with a copy of the same :

First. That the By-laws framed and adopted by the Beneficiaries at a meeting held in St. Paul's Church, Montreal, February 2nd, 1876, in conformity with the Quebec Act 38 Vic. cap. 64, for the purpose of filling up vacancies in the Temporalities' Board, and now read, be approved and adopted by this meeting.

Second. That in the opinion of this meeting all arrears at this date due to Beneficiaries should be paid up by the Board administering the Fund.

Third. That the Beneficiaries who receive the sums of $200 or $400 annually, consider the right to their payments as just and legal, yet under the circumstances they agree that, in the future management of the Fund, discretionary powers be left with the Temporalities' Board to make such reductions in the payments to all the ministers, except the commuting ministers, as after careful enquiry may be found necessary to protect the rights of the commuting ministers,—such deductions to be not more than *25 per cent.*,—the amount thus deducted to be paid to the above Beneficiaries from time to time during their lives as the Fund permits.

Fourth. That in view of the ambiguity of the last clause of Sect. II. of the Temporalities Act and the present state of the Fund, while the Act might be construed to sanction the payment of personal allowances to certain Professors of Queen's College in addition to the specified sum of $2000 a year, in the judgment of this meeting the latter sum alone should be in future paid; the personal rights of such Professors being recognized, however, on the withdrawal of any of them from their position in the College.

Fifth. That this meeting recognizes the necessity of seeking such legislation as will modify the provisions of the present Act anent the Temporalities Fund.

Sixth. That, when the Temporalities' Board shall deem it advisable to approach the Legislature seeking amendments to the present Act, in the opinion of this meeting it should be so amended that in terms thereof there shall be an annual meeting of the Beneficiaries at a time and place appointed by the Board, at which absent members may vote by proxy; that the business of the meeting shall be to hear the annual statement of the Board and consult as to the best interests of the Fund; consider applications to retire from the active duties of the ministry, provision being made that none shall retire on a larger allowance than they previously received without the consent of the Beneficiaries given at such meeting; elect four members of the Board in room of the same number retiring by rotation; and transact such other business as may be required.

Seventh. That should it be found that there are legal obstacles in the way of the Board's carrying out the recommendation passed

at the meeting of Beneficiaries anent the payment of arrears now due, such legislation shall be sought as shall enable the Board to give effect to said recommendation.

Eighth. That a committee be appointed to act with the Temporalities' Board in seeking legislation from the Dominion Parliament, consisting of the following: Dr. Williamson *(Convener)*, Principal Grant, Dr. McNish, Mr. Patterson, Mr. Burnet, Mr. M. W. McLean, and Mr. R. Campbell (Renfrew).

Ninth. That the Beneficiaries desire to express their continued confidence in the wisdom and integrity of the Board, and to convey their sincere thanks, as well to those members of the Board as to those of the Synod's Committee on Legislation, and other gentlemen, who so ably advocated the rights of the Beneficiaries when the petition for amendments to the Temporalities' Bill was before the Dominion Parliament.

Tenth. That in the opinion of this meeting the Beneficiaries are in duty bound to see that the members of the Temporalities' Board be indemnified in the matter of the costs *in re* Dobie *vs.* Temporalities' Board, for which they have been declared liable by the decision of the Privy Council.

JOHN S. BURNET, }
DONALD ROSS, } *Secretaries.*

Opinion of Counsel.

MONTREAL, 5th July, 1882.

To WILLIAM DARLING, Esq.,
Chairman of Temporalities Board.

DEAR SIR,

Being asked by you to state in writing our reasons for the opinion verbally expressed by us, to the effect that the Board has no power to pay the arrears of certain salaries which they ceased to pay in consequence of the appeal to the Privy Council, we beg to state them as follows :

We understand that should the Board assume to pay these arrears they would require to do so out of capital.

Now, prior to the passing of the Prov. Statute 38 Vic. ch. 64, the Board had not, in our opinion, any legal authority to encroach on the capital fund of which they were Trustees. And, altho' that Act purported to give them authority so to encroach on capital, the effect of the judgment in the Privy Council which declared the Act *ultra vires*, was to make all payments out of capital illegal, and to render the individual members of the Board personally responsible to make good all payments so illegally made.

As the Board, however, had evidently acted in good faith in making the payments they did, the Dominion Parliament has "ratified and confirmed all the acts and doings of the said Board," and has thus practically absolved them from all personal responsibility arising out of such illegal payments.

Parliament has also, in the Act it passed, sanctioned the payment by the Board of salaries of the class referred to, and, in doing so, to draw upon the capital fund. But the Act has not given authority to the Board to pay any arrears of such salaries.

Under the circumstances, we are of opinion that no legal authority exists for the payment of such arrears.

Yours truly.

STRACHAN BETHUNE.
JOHN L. MORRIS.